

# HOUSE BILL No. 1384

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-28-17; IC 6-3.1-26-26; IC 22-4.

**Synopsis:** Various economic development matters. Requires the Indiana economic development corporation (IEDC) to biennially review state and local economic development incentives to determine whether: (1) small businesses are eligible for the incentives; (2) small businesses can easily access and participate in the incentives; and (3) any incentives should be modified to make small businesses eligible for the incentives. Requires the IEDC to biennially submit a report to the legislative council. Requires the IEDC to conduct at least one public hearing to receive comments from owners and employees of small businesses. Authorizes the IEDC to: (1) solicit information and comments from small business owners and other individuals and entities; and (2) pay travel expenses, per diem, and expert witness fees. Reduces new employer contribution rates to the unemployment compensation system from 2.7% to 1% when the unemployment insurance benefit fund reaches a specified reserve amount. Repeals the December 31, 2011, expiration date for the Hoosier business investment tax credit.

**Effective:** Upon passage; July 1, 2008.

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**Bosma, Harris T**

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January 16, 2008, read first time and referred to Committee on Labor and Employment.

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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

## HOUSE BILL No. 1384

A BILL FOR AN ACT to amend the Indiana Code concerning economic development.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 5-28-17-1, AS ADDED BY P.L.4-2005, SECTION  
2 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2008]: Sec. 1. (a) The corporation shall do the following to carry out  
4 this chapter:

5 (1) Contribute to the strengthening of the economy of Indiana by  
6 encouraging the organization and development of new business  
7 enterprises, including technologically oriented enterprises.

8 (2) Submit an annual report to the governor and to the general  
9 assembly not later than November 1 of each year. The annual  
10 report must:

11 (A) include detailed information on the structure, operation,  
12 and financial status of the corporation; and

13 (B) be in an electronic format under IC 5-14-6.

14 The board shall conduct an annual public hearing to receive  
15 comment from interested parties regarding the annual report, and  
16 notice of the hearing shall be given at least fourteen (14) days  
17 before the hearing in accordance with IC 5-14-1.5-5(b).



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(3) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(4) Conduct activities for nontraditional entrepreneurs under IC 5-28-18.

(5) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(6) Establish and administer the microenterprise partnership program under IC 5-28-19.

**(7) Conduct the biennial review and submit the biennial report required by section 3 of this chapter.**

(b) The corporation may do the following to carry out this chapter:

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the corporation's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-20.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-28-18.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

SECTION 2. IC 5-28-17-3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2008]: Sec. 3. (a) The corporation shall biennially do the following:

(1) Review all state and local economic development incentives and determine the following:

(A) Whether small businesses are eligible for the incentives.

(B) Whether small businesses can easily access and participate in the incentives for which they are eligible.

(C) Whether any incentives should be modified to make some or all small businesses eligible for the incentives. In the report required by subdivision (2), the corporation must state the reasons why incentives should be modified or should not be modified to make small businesses eligible for the incentives.

The corporation shall conduct at least one (1) public hearing to receive comments from owners and employees of small businesses regarding the review conducted under this subdivision.

(2) Submit a report on the review required by subdivision (1) to the governor and the legislative council before November 1, 2008, and November 1 of every even-numbered year thereafter. The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

(b) The corporation may do the following in meeting the requirements of subsection (a):

(1) Solicit information and comments from:

(A) small business owners and other private individuals and entities;

(B) tax policy experts; and

(C) any other source considered appropriate by the corporation.

(2) Pay any travel expenses, per diem, and expert witness fees for individuals or entities providing information under subdivision (1).

SECTION 3. IC 22-4-10-3, AS AMENDED BY P.L.108-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11.5, and IC 22-4-37-3.

SECTION 4. IC 22-4-10-6, AS AMENDED BY P.L.108-2006,

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SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
UPON PASSAGE]: Sec. 6. (a) When:

(1) an employing unit (whether or not an employing unit at the  
time of the acquisition) becomes an employer under  
IC 22-4-7-2(a);

(2) an employer acquires the organization, trade, or business, or  
substantially all the assets of another employer; or

(3) an employer transfers all or a portion of the employer's trade  
or business (including the employer's workforce) to another  
employer as described in IC 22-4-11.5-7;

the successor employer shall, in accordance with the rules prescribed  
by the department, assume the position of the predecessor with respect  
to all the resources and liabilities of the predecessor's experience  
account.

(b) Except as provided by IC 22-4-11.5, when:

(1) an employing unit (whether or not an employing unit at the  
time of the acquisition) becomes an employer under  
IC 22-4-7-2(b); or

(2) an employer acquires a distinct and segregable portion of the  
organization, trade, or business within this state of another  
employer;

the successor employer shall assume the position of the predecessor  
employer with respect to the portion of the resources and liabilities of  
the predecessor's experience account as pertains to the distinct and  
segregable portion of the predecessor's organization, trade, or business  
acquired by the successor. An application for the acquiring employer  
to assume this portion of the resources and liabilities of the disposing  
employer's experience account must be filed with the department on  
prescribed forms not later than thirty (30) days immediately following  
the disposition date or not later than ten (10) days after the disposing  
and acquiring employers are mailed or otherwise delivered final notice  
that the acquiring employer is a successor employer, whichever is the  
earlier date. This portion of the resources and liabilities of the  
disposing employer's experience account shall be transferred in  
accordance with IC 22-4-11.5.

(c) Except as provided by IC 22-4-11.5, the successor employer, if  
an employer prior to the acquisition, shall pay at the rate of  
contribution originally assigned to it for the calendar year in which the  
acquisition occurs, until the end of that year. If not an employer prior  
to the acquisition, the successor employer shall pay the rate of two and  
seven-tenths percent (2.7%) **or the rate determined under  
IC 22-4-11-2.5, if applicable**, unless the successor employer assumes

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all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of the year. If the successor employer had any employment prior to the date of acquisition upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be two and seven-tenths percent (2.7%) **or the rate determined under IC 22-4-11-2.5, if applicable.**

SECTION 5. IC 22-4-10.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Skills 2016 training assessments accrue and are payable by each employer under section 3 of this chapter for each calendar year in which the employer is subject to IC 22-4-10-1 with respect to wages for employment.

(b) Skills 2016 training assessments are due and payable to the department by each employer for the purposes set forth in section 2 of this chapter and are not deductible, in whole or in part, from the wages of individuals in the service of the employer.

(c) Skills 2016 training assessments paid under this chapter:

- (1) shall not be credited to the employer's experience account; and
- (2) do not affect the computation of an employer's contribution rate under IC 22-4-11-2 **or IC 22-4-11-2.5.**

SECTION 6. IC 22-4-11-2, AS AMENDED BY P.L.108-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5:

- (1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3 or 3.3 of this

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chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%), except as otherwise provided in **section 2.5 of this chapter or IC 22-4-37-3**, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of one percent (1%) until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(e) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

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1 (A) the employer's taxable wages for the preceding calendar  
2 year; by

3 (B) the total taxable wages for the preceding calendar year.  
4 STEP TWO: Multiply the quotient determined under STEP ONE  
5 by the total amount of benefits charged to the fund under section  
6 1 of this chapter.

7 (f) One (1) percentage point of the rate imposed under subsection  
8 (c) or the amount of the employer's payment that is attributable to the  
9 increase in the contribution rate, whichever is less, shall be imposed as  
10 a penalty that is due and shall be deposited upon collection into the  
11 special employment and training services fund established under  
12 IC 22-4-25-1. The remainder of the contributions paid by an employer  
13 pursuant to the maximum rate shall be:

14 (1) considered a contribution for the purposes of this article; and  
15 (2) deposited in the unemployment insurance benefit fund  
16 established under IC 22-4-26.

17 SECTION 7. IC 22-4-11-2.5 IS ADDED TO THE INDIANA CODE  
18 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
19 UPON PASSAGE]: **Sec. 2.5. (a) This section applies to the  
20 determination of contribution rates for a calendar year in which  
21 the balance in the fund as of the determination date is at least:**

22 **(1) an amount sufficient for Schedule B to apply as the**  
23 **schedule of rates, as determined under section 3 of this**  
24 **chapter; plus**

25 **(2) an amount that maintains the fund ratio (as determined by**  
26 **section 3 of this chapter) at the lowest percentage required for**  
27 **Schedule B to apply after the reduced contribution rate**  
28 **described in subsection (b) is implemented.**

29 **(b) Except as otherwise provided in IC 22-4-11.5 or**  
30 **IC 22-4-37-3, the contribution rate for an employer that would**  
31 **otherwise pay the contribution rate under section 2(b)(2) of this**  
32 **chapter is one percent (1%) rather than the contribution rate**  
33 **determined under section 2(b)(2) of this chapter.**

34 **(c) If this section is used to determine employer contribution**  
35 **rates for a calendar year, for each subsequent calendar year the**  
36 **contribution rate for an employer that would otherwise pay the**  
37 **contribution rate under section 2(b)(2) of this chapter is one**  
38 **percent (1%) rather than the contribution rate determined under**  
39 **section 2(b)(2) of this chapter, except as otherwise provided in**  
40 **IC 22-4-11.5 or IC 22-4-37-3, unless and until:**

41 **(1) the employer has been subject to this article throughout**  
42 **the thirty-six (36) consecutive calendar months immediately**

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preceding the computation date; and

(2) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(d) This section expires July 1, 2013.

SECTION 8. IC 22-4-37-3, AS AMENDED BY P.L.108-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department are or no longer shall be available for such purposes;

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department;

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B), IC 22-4-11-2(c), **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11-3.3, and IC 22-4-11.5, to the rate of contribution, as determined for such year in which such change occurs, shall be added not more than eight-tenths percent (0.8%) as prescribed by the department.

(b) The amount of the excess of tax for which such employer is or may become liable by reason of this section over the amount which such employer would pay or become liable for except for the provisions of this section, together with any interest or earnings thereon, shall be paid and transferred into the employment and training services administration fund to be disbursed and paid out under the same conditions and for the same purposes as is other money provided to be

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1 paid into such fund. If the commissioner shall determine that as of  
2 January 1 of any year there is an excess in said fund over the money  
3 and funds required to be disbursed therefrom for the purposes thereof  
4 for such year, then and in such cases an amount equal to such excess,  
5 as determined by the commissioner, shall be transferred to and become  
6 part of the unemployment insurance benefit fund, and such funds shall  
7 be deemed to be and are hereby appropriated for the purposes set out  
8 in this section.

9 SECTION 9. IC 6-3.1-26-26 IS REPEALED [EFFECTIVE JULY  
10 1, 2008].

11 SECTION 10. [EFFECTIVE UPON PASSAGE] **IC 22-4-10-3,**  
12 **IC 22-4-10-6, IC 22-4-10.5-4, IC 22-4-11-2, and IC 22-4-37-3, all as**  
13 **amended by this act, and IC 22-4-11-2.5, as added by this act, apply**  
14 **to the determination of rates of employer contributions to the**  
15 **unemployment compensation system for calendar years beginning**  
16 **after December 31, 2008.**

17 SECTION 11. **An emergency is declared for this act.**

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